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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Group Art Unit: TBA
)
RIGGINS et al.) BOX: Office of Patent Legal
) Administration
)
Serial No.: 09/853,880)
) Docket No. 000250.00003
Filed: May 14, 2001)

For: FOUR GENETIC TUMOR MARKERS FOR HUMAN GLIOBLASTOMA

PETITION UNDER 37 C.F.R. § 1.53(e)

Deputy Commissioner for Patent
Examination Policy
Washington, D.C. 20231
Attn: Office of Patent Legal Administration

Honorable Deputy Commissioner:

Applicants received a Notice of Incomplete Nonprovisional Application dated October 30, 2001. The filing date was not granted. The petition fee of 37 C.F.R. §1.17(h) should be charged to the deposit account 19-0733.

Relief Requested

Applicants request that a filing date of May 14, 2001 be granted for the subject application.

Reasons Relief Should be Granted

The filing date of May 14, 2001 should be granted for two reasons. First, the drawings were actually provided to the Patent and Trademark Office with the rest of the application. Applicants believe that the drawings subsequently became dissociated from the rest of the application during processing in the Patent and Trademark Office. Thus applicants request that the drawings attached hereto as Attachment A be entered into the

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Adjustment date: 02/20/2002 AKELLEY
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application files of the Patent and Trademark Office and that the original filing date be accorded to the application.

Second, the application is complete without the drawings. The drawings are not required to support the claims. Thus even if the Patent and Trademark Office does not retroactively enter the drawings into the application, the filing date of May 14, 2001 should be granted to the subject application.

Facts In Support of Petition

The transmittal sheet accompanying the application indicates that the four sheets of drawings were attached. Attachment B. Moreover, the internal documentation of the law firm which filed the application indicates that the four sheets of drawings were attached to the application when delivered to the Patent and Trademark Office. This internal documentation includes a log for Patent and Trademark Office deliveries filled out by the secretary and the courier, and the computerized docketing records filled out by the manager of the docketing department. See Attachment C. This internal documentation indicate that the four sheets of drawings were actually delivered to the Patent and Trademark Office on May 14, 2001 along with the remainder of the application.

The drawings are not necessary for a full disclosure of the claimed invention because the verbal text alone is sufficient to adequately describe and enable the claimed invention. Figure 1 describes an overall approach; this is verbally described in Example 4. Figure 2 depicts typical results of the overall approach; these are merely illustrative and are not necessary to practice the claimed invention. Figure 3 depicts results of expression testing which are not necessary to practice the invention claimed. These

results are merely illustrative. Figure 4 depicts results of expression monitoring for Annexin A1. These results are provided verbally in Example 3. Nothing in the figures is necessary to practice the invention. If necessary, applicants will amend the specification to remove references to all figures.

Request for Refund

Since applicants are entitled to their filing date, a refund of the petition fee is respectfully requested.

Date: 19 Dec 01

By: 

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